

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI-DIVISION

CASE NO. _____

FREDDIE L. FOSTER

Plaintiff,

vs.

UNITED STATES POSTAL SERVICE,

Defendant.

_____ /

COMPLAINT

Plaintiff Freddie Foster sues Defendant United States Postal Service, and alleges:

1. This is an action for damages exceeding \$75,000, exclusive of costs and interest.
2. Plaintiff Freddie Foster is a Florida citizen and resides in Monroe County.
3. Defendant United States Postal Service is a federal agency within the meaning of 44 USC §3502 and the APA, 5 U.S.C. § 701. (“USPS”)
4. This cause of action arose in Miami-Dade County as a result of a vehicle collision between a USPS truck and Mr. Foster’s car.
5. Plaintiff Freddie Foster filed a claim for injuries under the Federal Tort

Claims Act with Defendant on October 7, 2021. The claim was filed with both the USPS National Tort Center and the USPS South Florida Tort District Office. The USPS acknowledged receiving the claim on October 12, 2021 and represented that it was reviewing the claim.

6. USPS has not made any determination on the claim since that time. More than six months have passed since Mr. Foster presented his claim. Under 28 USC §2675(a), the USPS's failure to make a final within 6 months is "deemed a final denial" and Mr. Foster has the option to sue. Accordingly, Mr. Foster has filed this action.

7. Plaintiff Foster has satisfied all conditions precedent before filing this action.

8. On October 14, 2019, a USPS delivery truck flipped a U-Turn on a two lane road and failed to see Mr. Foster coming in his car. A violent collision resulted. This crash occurred on SW 147th Ave, just south of SW 252nd Street, Miami-Dade.

9. As a consequence of the crash, Mr. Foster required shoulder surgery, has endured multiple herniations to his neck, and had to give up his position as Lead Project Manager at the Turkey Point Nuclear Plant. Mr. Foster's car was a total loss.

10. At all material times, Defendant USPS's driver was acting within the course and scope of her employ as a USPS mail carrier.

11. At all material times, Defendant USPS, through its employee, had a duty to operate the mail truck in in a safe, reasonable, and prudent manner.

12. Defendant owed this duty to Mr. Foster.

13. Defendant USPS, through its, employee breached the duty owed to Armenteros by committing the following, inter alia, acts and omissions:

(a) Making an improper and unsafe U-Turn.

(b) Failing to yield.

(c) Driving carelessly.

(d) Driving recklessly.

(e) Driving too fast for the conditions.

(f) Failing to use the proper lane designate.

(g) Violating §316.1515, §316.122, §316.151, §316.1925 (1), §316.192 (1), §319.189, §316.183 and §316.089 Fla. Stat.

14. As a result of Defendant's negligence, Mr. Foster suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, aggravation of a pre-existing condition, expense of surgery, hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, a total loss of his car and its use. The losses are either permanent or continuing, and Mr. Foster will suffer losses in the future.

WHEREFORE, Plaintiff Foster demands judgment for damages, prejudgment interest, costs, attorneys' fees, and such other relief as the Court deems proper, against Defendant United States Postal Service, and trial by jury of all issues so triable.

Dated: September 29, 2022.

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